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7 Attorney for Debtors

8  
9 **IN THE UNITED STATES BANKRUPTCY COURT**  
10 **FOR THE DISTRICT OF ARIZONA**

11 In Re:

12 Michael Ervin Warren and Carol Anne  
13 Warren,

14 Debtor.

15 Wells Fargo Bank, N.A.,

16 Movant,

17 vs.

18 Michael Ervin Warren and Carol Anne  
19 Warren, Debtors; and Lawrence J.  
20 Warfield, Trustee,

21 Respondents.  
22

Case No. 2-09-bk-21736-RTBP

Chapter 7

**MOTION TO SET ASIDE ORDER  
GRANTING STAY RELIEF**

**[Emergency Telephonic Oral Argument  
Requested]**

Re: Real Property located  
at 1726 Saw Mill Rd  
Cottonwood, AZ 86326

23 Debtors, by and through undersigned counsel, hereby this Motion to Set Aside Order  
24 Granting Stay Relief that has recently been entered in the above-captioned matter. At the  
25 preliminary hearing on December 14, 2009, the Court granted Movant's motion for stay relief  
26 based on the representation of Movant's counsel the Debtors' loan modification had been  
27 denied. Debtors have subsequently been informed by Wells Fargo that their loan modification  
28

1 remains active and is under review. Undersigned counsel has also personally spoken with a  
2 representative of Wells Fargo and confirmed that Debtors' loan modification remains active and  
3 is under review. Wells Fargo is processing a request for written verification of the loan  
4 modification status.  
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7 During the hearing, the Court explicitly stated that stay relief was being granted based on  
8 counsel's representation that Wells Fargo had denied the Debtors' loan modification. Inasmuch  
9 as this was not accurate, good cause exists to set aside the Order granting stay relief and  
10 continue the preliminary hearing. Because a Trustee's Sale is currently set to take place on  
11 January 12, 2010, Debtors respectfully request that an emergency oral argument be set on this  
12 Motion prior to that date.  
13  
14

15 Based on the foregoing, Debtors respectfully requests that their Motion to Set Aside  
16 Order Granting Stay Relief be granted.  
17

18 DATED this 22nd day of December, 2009.

19 GORDON & GORDON, P.L.L.C.  
20

21 /s/ Michael J. Gordon

22 Michael J. Gordon

23 Attorneys for Debtors  
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1 Original filed this 22<sup>nd</sup> day  
2 of December, 2009 with:

3 United States Bankruptcy Court  
4 230 N. First Ave., Ste 204  
5 Phoenix, AZ 85003-1706  
6

7 Copies of the foregoing  
8 were mailed this 22<sup>nd</sup> day  
9 of December, 2009 to:

10 Leonard J. McDonald  
11 Tiffany & Bosco PA  
12 2525 East Camelback Rd, Ste 300  
13 Phoenix, AZ 85016  
14 Attorneys for Wells Fargo

15 Bankruptcy Trustee  
16 Lawrence J. Warfield  
17 PO Box 14647  
18 Scottsdale, AZ 85267  
19

20 /s/ Michael J. Gordon  
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